

DIRECT TESTIMONY
OF
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DIRECTOR OF THE POLICY DIVISION
ILLINOIS COMMERCE COMMISSION

APPROVAL OF THE ENERGY EFFICIENCY AND DEMAND RESPONSE PLAN PURSUANT TO
SECTION 8-103(F) OF THE PUBLIC UTILITIES ACT.

COMMONWEALTH EDISON COMPANY

ICC DOCKET No. 16-0420

OCTOBER 24, 2016

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Dr. James Zolnierек and my business address is 527 East Capitol
4 Avenue, Springfield, Illinois 62701.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission ("Commission" or "ICC") as
7 the Director of the Policy Division within the Public Utility Bureau.

8 **Q. Please describe your educational background.**

9 A. I earned my Doctor of Philosophy degree in economics from Michigan State
10 University in 1996. Prior to joining the Illinois Commerce Commission, I was
11 employed by the Federal Communications Commission ("FCC") as an Industry
12 Economist in the Common Carrier Bureau, Industry Analysis Division.

13 **Q. What is the purpose of your testimony?**

14 A. In this proceeding Commonwealth Edison Company ("ComEd" or "Company")
15 seeks approvals of an energy efficiency and demand response Plan, for the period
16 covering Plan Year ("PY10"), Plan Year ("PY11"), and Plan Year ("PY12"),
17 pursuant to Section 8-103 of the Illinois Public Utilities Act ("Act"). 220 ILCS 5/8-
18 103.¹ In support of its Plan, ComEd filed the Direct Testimony of Michael S. Brandt
19 ("ComEd Ex. 2.0") on September 1, 2016. In his testimony, Mr. Brandt requests

¹ Plan Year 10 is the period from June 1, 2017 – May 31, 2018. Plan Year 11 is the period from June 1, 2018 – May 31, 2019. Plan Year 12 is the period from June 1, 2019 – May 31, 2020.

the Commission fix and approve budgets for PY10, PY 11, and PY12. In this testimony, I respond to Mr. Brandt's request.

II. FIXED BUDGETS

Q. Has ComEd requested that the Commission interpret its Section 8-103 spending limitations given the related caps on rate increases included in Section 8-103(d) of the Act?

A. Yes. In his Direct Testimony, Mr. Brandt requests that the Commission approve the following:

Fixed budgets for PY10, PY11, and PY12, which ComEd proposes be approved upfront for the entire three-year Plan period. This means that the budget will not be recalculated or revised during such period, and ComEd will be permitted to recover the costs that it incurs under these budgets regardless of whether the actual revenues collected during the Plan Year equal the budget amount.²

He further states that:

This collection would be separate from, and not subject to, the budget approved for that future Plan Year, and thus the collection would not reduce either the approved budget for that future Plan Year or the amount of measures or programs to be implemented during that future Plan Year.³

Q. How do you understand Mr. Brandt's proposal to operate in practice?

A. As I understand it, Mr. Brandt's proposal is designed to address situations where actual energy deliveries are less than the forecasted amount and the amount ComEd recovers from customers through its Section 8-103 related charges for a Plan Year falls short of the ComEd Section 8-103 costs for the Plan Year. As I

² ComEd Ex. 2.0, 4.

³ ComEd Ex. 2.0, 21.

understand it, ComEd seeks Commission authority to assess a fee, over and above what it would otherwise charge, and without regard to the Section 8-103(d) rate increase cap, in an ensuing year to remedy any cost recovery shortfall.

Q. How is ComEd's Section 8-103 budget set for each Plan Year?

A. Mr. Brandt describes this process in detail and, therefore, I will only summarize key parts of this calculation that relate to the instant issue.⁴ For Plan Years 10 – 12, Section 8-103(d) limits the estimated average annual increase in the amounts paid by retail customers in connection with electric service due to the cost of Section 8-103 measures to 0.176 cents per kWh.⁵ To set its budgets for each particular Plan Year, ComEd multiplies the statute's maximum allowable rate increase of 0.176 cents per kWh by the forecasted energy delivery for the respective Plan Year.⁶ This produces estimated budgets of approximately \$153.3 million, \$153.8 million, and \$154.0 million for Plan Years 10, 11, and 12, respectively.

Q. Under what circumstances will ComEd recover less through its Section 8-103 charges than it spends on Section 8-103 measures?

A. It is possible that ComEd might recover less than it spends on Section 8-103 measures through its Section 8-103 charges if each of two things happen. First, actual energy deliveries must fall short of forecasted energy delivered, which will cause the amount ComEd will recover through its Section 8-103 related charges

⁴ ComEd Ex. 2.0, 20 – 21 and ComEd Ex. 2.1.

⁵ 220 ILCS 5/8-103(d) and ComEd Ex 2.0, 20.

⁶ ComEd Ex. 2.0, 20.

65 to fall short of its budget for the Plan Year. Second, ComEd must actually spend
66 more than it recovers from customers through its Section 8-103 related charges.⁷
67 Thus, when ComEd spends its full Plan Year budget and actual energy deliveries
68 fall short of forecasted energy delivered, ComEd's Section 8-103 expenditures will
69 exceed ComEd Section 8-103 recoveries.

70 **Q. Is it possible for actual energy deliveries to fall short of forecasted deliveries**
71 **while at the same time ComEd recovers funds through Section 8-103 charges**
72 **that exceed its actual expenditures?**

73 It is possible. If ComEd spends less than its budget in a particular Plan Year, it is
74 possible that the revenue it collects from customers through Section 8-103 related
75 charges for the Plan Year will exceed its Section 8-103 spending even if actual
76 energy deliveries fall short of forecasted deliveries for the Plan Year. I note,
77 however, that in the previous Plan docket the Commission directed ComEd "to the
78 extent possible, to spend the entire proposed budget for PYs 7-9."⁸ The closer
79 ComEd comes to spending its entire budget, the more likely it becomes that, if
80 actual energy deliveries fall short of forecasted deliveries, then the amount ComEd
81 recovers through Section 8-103 charges will fall short of its actual Section 8-103
82 expenditures.

⁷ For ease of exposition, here, and throughout this testimony, I am including the Section 8-103 funds that ComEd provides to DCEO within ComEd's Section 8-103 spending. Similarly, for ease of exposition, I have assumed away reimbursements of Section 8-103 costs that ComEd might receive from sources other than the application of Section 8-103 charges (e.g., revenues ComEd receives from its Regional Transmission Provider for load reductions related to Section 8-103 measures).

⁸ Illinois Commerce Commission, Order in Docket No. 13-0495, dated January 28, 2014, at 63.

83 **Q. Can you provide an example of how ComEd's proposal might work in**
84 **practice?**

85 A. Yes. Mr. Brandt's proposal appears largely conceptual, and is not presented in
86 detail. He does not provide explicit detail regarding how ComEd proposes to
87 implement its proposal. For example, he does not make clear when a shortfall in
88 Section 8-103 recovery in a Plan Year would be corrected. He does not state
89 whether delivery forecasts would be updated when establishing additional charges
90 associated with corrections. For purposes of the following example, I will assume
91 the correction associated with Plan Year 10 occurs during Plan Year 12 and that
92 ComEd does not alter its energy delivery forecasts during the course of the Plan.

93 To illustrate my understanding of the ComEd proposal, assume that actual energy
94 delivered in Plan Year 10 is 10% below that estimated by ComEd and that ComEd
95 actually spends its entire budget for Plan Year 10 during Plan Year 10. In this
96 case, ComEd will recover approximately 10% less than it spends on Section 8-103
97 measures.⁹ Based upon ComEd's Plan Year 10 budget request, the Plan Year
98 10 shortfall would be approximately \$15,326,432. To correct this shortfall, ComEd
99 would then increase its Plan Year 12 Section 8-103 charges. To meet its Plan
100 Year 12 budget, ComEd would charge 0.176 cents per kWh. To correct for its
101 under-recovery in Plan Year 10, ComEd would need to add an additional 0.018
102 cents per kWh charge, which is equal to the \$15,326,432 Plan Year 10 shortfall
103 divided by the estimated 87,522,000,000 kWh energy delivery forecast for Plan

⁹ As explained more fully below, because Section 8-103 charges differ by customer class, a 10% energy delivery forecasting error may not yield an exact 10% revenue recovery forecasting error.

Year 12. Thus, ComEd would charge an approximate average rate of 0.194 cents per kWh in Plan Year 12 related to Section 8-103 measures.

Q. Putting aside ComEd's proposal, is it currently possible that ComEd's charges will exceed 0.176 cents per kWh in a particular Plan Year?

A. It is possible. ComEd's rates are designed to recover, on average, 0.176 cents per kWh. While designed to recover, on average, 0.176 cents per kWh, ComEd rates currently vary across rate classes. Some rates exceed 0.176 cents per kWh and some are less. The rates weighted based upon expected demand, however, average to 0.176 cents per kWh. Therefore, the expectation is that ComEd's charges will equal 0.176 cents per kWh in a particular Plan Year. Nevertheless, if energy deliveries for classes with rates above 0.176 cents per kWh exceeds expectations and energy deliveries for classes with rates below 0.176 cents per kWh falls short of expectations then the actual weighted average Section 8-103 charge can exceed 0.176 cents per kWh.¹⁰

Q. Is there a distinction between the situation you just described and what ComEd proposes?

Yes. In the scenario I just described, the expected Section 8-103 charges are equal to 0.176 cents per kWh entering the Plan Year. Under ComEd's proposal to fix Plan budgets irrespective of differences between forecasted and actual energy

¹⁰ While it is possible that Section 8-103 charge can exceed 0.176 cents per kWh, ComEd's tariff currently allows for Section 8-103 related rate revisions within a delivery year. ILL. C.C. No. 10, 1st Revised Sheet No. 248.1. ComEd can, if energy deliveries are not consistent with its forecasts, adjust its rates in order to keep its average 8-103 rates at or below 0.176 cents per kWh for the delivery year.

deliveries, expected Section 8-103 charges can exceed 0.176 cents per kWh entering the Plan Year.

Q. Has the Commission permitted ComEd to recover costs incurred in excess of the approved energy efficiency budget in the past?

A. Yes. In approving ComEd's energy efficiency and demand response Plan for the period June 1, 2008 – May 31, 2011 the Commission approved ComEd's recovery of "any de minimis costs that may exceed the spending cap in any plan year."¹¹ With respect to ComEd's Plan for June 1, 2011 – May 31, 2014, the Commission approved as reasonable "ComEd's request that it be permitted to recover prudently and reasonably incurred costs that "incidentally exceed the spending screen in a given Plan year."¹²

Q. Is what ComEd proposes here the same as what the Commission approved in the previous Plan dockets?

A. No. First, the Commission approved recovery of *de minimis* or incidental costs exceeding the spending cap for a plan year. ComEd places no such "*de minimis*" or "incidental" restrictions on its proposal in this proceeding. Second, the Commission's prior approval did not, as ComEd's proposal does, allow costs to systematically exceed spending caps. The Commission's prior approvals allowed ComEd's spending to exceed the spending cap (by a de minimis amount) for a single plan year. Had ComEd spent more than the rate increase cap in any particular year, the Commission's prior approvals did not prevent or allow ComEd

¹¹ Illinois Commerce Commission, Order in Docket No. 07-0540, Dated February 6, 2008, 41.

¹² Illinois Commerce Commission, Order in Docket No. 10-0570, Dated December 21, 2010, 40.

144 to continue spending more in the ensuing year. In such circumstances, ComEd
145 could have and should have revised its Plan in the ensuing year so that going into
146 the year its expected expenditures were less than its spending cap. ComEd's
147 proposal in this proceeding does not require it to make such inter-plan year
148 adjustments. If energy deliveries are below expectations in a plan year, ComEd's
149 plan year would not require it to adjust to these revised expectations following the
150 plan year even if the energy delivery reductions are expected to persist. That is,
151 ComEd's proposal allows ComEd to enter a plan year with a spending plan that it
152 fully expects entering the plan year will exceed its spending cap.

153 **Q. Are there benefits to ComEd's proposal?**

154 A. Yes. The possibility of intra-Plan budget adjustments creates uncertainty for
155 ComEd as to how much it will have available to spend on programs and measures.
156 Eliminating such uncertainty simplifies ComEd's job of administering its Plan.
157 Additionally, mid-Plan budget adjustments made outside of Commission
158 proceedings are, all else equal, less transparent than are budget adjustments
159 made during Commission proceedings. Thus, ComEd's plan simplifies the
160 Commission's job of monitoring ComEd's administration of its Plan.

161 **Q. What are the costs to ComEd's proposal?**

162 A. ComEd's proposal relaxes current protections for its rate payers. Section 8-103(d)
163 rate caps require ComEd to adjust its Plan so that ratepayers' bill increases as a
164 result of energy efficiency programs will be limited. ComEd's proposal would
165 relieve it from any requirement to make changes during implementation of its Plan
166 in the event that energy deliveries prove lower than its current forecasts. Therefore,

under ComEd's proposal, it is possible that ratepayer bill increases will exceed by more than *de minimis* amounts the bill increase caps provided for by Section 8-103.

Q. Does relaxing rate increase caps affect some classes of rate payers more than others?

Yes. While the caps limit the costs to ratepayers from implementation of Section 8-103 programs, these limitations are affected by the energy efficiency provisions of Section 16-111.5B. Section 16-111.5B provides for procurement of energy efficiency programs or measures that are in addition to, or expand upon, ComEd's Section 8-103 measures. There is no rate increase cap associated with Section 16-111.5B measures. Therefore, Section 16-111.5B may have the effect of causing rate increases to exceed the rate increase caps included in Section 8-103. Notably, however, 16-111.5B does not apply to measures and programs for large commercial and industrial customers and such customers are not subject to charges associated with Section 16-111.5B programs. Therefore, the customers most vulnerable to the loss of rate increase protections as a result of ComEd's proposal are large commercial and industrial customers.

III. RECOMMENDATION

Q. Do you recommend the Commission approve ComEd's proposal?

A. No. ComEd's proposal would relax current protections for its rate payers. ComEd should, when it becomes known to the Company that energy deliveries are expected to be below its original projections, make adjustments in its spending on

189 energy efficiency and demand measures in order to ensure that it will not need to
190 increase any expected Plan Year charges above 0.176 cents per kWh.

191 **IV. CONCLUSION**

192 **Q. Does this conclude your prepared direct testimony?**

193 **A. Yes.**